

AMENDED IN ASSEMBLY APRIL 13, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2135**

**Introduced by Assembly Member Aroner**

February 23, 2000

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An act to amend Section 668 of, and to add Section 654.3 to, the Harbors and Navigation Code, relating to vessels.

LEGISLATIVE COUNSEL'S DIGEST

AB 2135, as amended, Aroner. Vessels.

~~Existing~~

(1) *Existing* law governs the operation and equipment of vessels subject to the jurisdiction of this state.

This bill would require that any *diesel powered* vessel operating exclusively in California, engaged in the commercial transport of passengers, *as specified*, use only ~~vehicular~~ diesel fuel ~~with a maximum sulfur content of 500 parts per million by weight~~ *formulated as specified*. The bill would make a violation of this provision an infraction, punishable by a fine of not more than \$500, thereby imposing a state-mandated local program by creating an infraction. The bill also would impose a state-mandated local program by requiring local peace officers and harbor policemen to enforce that provision.

(2) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the*

creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 654.3 is added to the Harbors and  
2 Navigation Code, to read:

3 654.3. Each *diesel* powered vessel operating  
4 exclusively in California, engaged in the commercial  
5 transport of passengers *with the capacity to transport 75*  
6 *passengers or more*, shall ~~use only vehicular diesel fuel~~  
7 ~~with a maximum sulfur content of 500 parts per million~~  
8 ~~by weight.~~ *use only California diesel fuel formulated as*  
9 *specified in Sections 2281 and 2282 of Title 13 of the*  
10 *California Code of Regulations.*

11 SEC. 2. Section 668 of the Harbors and Navigation  
12 Code is amended to read:

13 668. (a) Any person who violates subdivision (c) of  
14 Section 652, Section 654, 654.05, 654.06, 655.7, 658.3, 659,  
15 673, 674, or 754, or any regulations adopted pursuant  
16 thereto, or any regulation adopted pursuant to Section  
17 655.3 relating to vessel equipment requirements, is guilty  
18 of an infraction, punishable by a fine of not more than two  
19 hundred fifty dollars (\$250).

20 (b) (1) Any person who violates Section 655.2, or any  
21 regulation adopted pursuant thereto, or, except as  
22 provided in subdivision (a), any regulation adopted  
23 pursuant to Section 655.3, is guilty of a misdemeanor and

1 shall be punished by a fine of not more than one hundred  
2 dollars (\$100) or imprisonment in the county jail for not  
3 more than five days, or by both that fine and  
4 imprisonment, for each violation.

5 (2) Any person who violates subdivision (a) or (b) of  
6 Section 658 is guilty of a misdemeanor and shall be  
7 punished by a fine of not more than two hundred dollars  
8 (\$200) for each violation.

9 (3) Any person who violates subdivision (d) of Section  
10 652, Section 652.5, subdivision (a) of Section 655, Section  
11 655.05, 656, or 656.1, subdivision (d) or (e) of Section 658,  
12 Section 663.6 or 665, or any rules and regulations adopted  
13 pursuant to subdivision (b) or (c) of Section 660, is guilty  
14 of a misdemeanor and shall be punished by a fine of not  
15 more than one thousand dollars (\$1,000) or imprisonment  
16 in the county jail for not more than six months, or by both  
17 that fine and imprisonment, for each violation.

18 (c) (1) Any person convicted of a violation of Section  
19 656.2 or 656.3 shall be punished by a fine of not less than  
20 one thousand dollars (\$1,000) or more than ten thousand  
21 dollars (\$10,000), or by imprisonment in the state prison  
22 or in the county jail for not more than one year, or by both  
23 that fine and imprisonment.

24 (2) In imposing the minimum fine required by this  
25 subdivision, the court shall take into consideration the  
26 defendant's ability to pay the fine and, in the interest of  
27 justice for reasons stated in the record, may reduce the  
28 amount of that minimum fine to less than the amount  
29 otherwise required by this subdivision.

30 (d) Any person convicted of a violation of Section 658.5  
31 shall be punished by a fine of not more than one hundred  
32 dollars (\$100).

33 (e) Any person convicted of a first violation of  
34 subdivision (b), (c), (d), or (e) of Section 655, or of a  
35 violation of Section 655.4, shall be punished by a fine of not  
36 more than one thousand dollars (\$1,000) or imprisonment  
37 in the county jail for not more than six months, or by both  
38 that fine and imprisonment. If probation is granted, the  
39 court, as a condition of probation, may require the person  
40 to participate in, and successfully complete, an alcohol or

1 drug education, training, or treatment program, in  
2 addition to imposing any penalties required by this code.  
3 In order to enable all persons to participate in licensed  
4 programs, every person referred to a program licensed  
5 pursuant to Section 11836 of the Health and Safety Code  
6 shall pay that program's costs commensurate with that  
7 person's ability to pay as determined by Section 11837.4  
8 of the Health and Safety Code.

9 (f) Any person convicted of a second or subsequent  
10 violation of subdivision (b), (c), (d), or (e) of Section 655  
11 within seven years of the first conviction of any of those  
12 subdivisions or subdivision (f) of Section 655, or any  
13 person convicted of a violation of subdivision (b), (c),  
14 (d), or (e) of Section 655 within seven years of a separate  
15 conviction of Section 191.5 or subdivision (c) of Section  
16 192.5 of the Penal Code, when the separate conviction  
17 resulted from the operation of a vessel, or a separate  
18 conviction of Section 23152 or 23153 of the Vehicle Code  
19 or of Section 191.5 or paragraph (3) of subdivision (c) of  
20 Section 192 of the Penal Code, when the separate  
21 conviction resulted from the operation of a motor vehicle,  
22 shall be punished by a fine of not more than one thousand  
23 dollars (\$1,000) or imprisonment in the county jail for not  
24 more than one year, or by both that fine and  
25 imprisonment. If probation is granted, the court, as a  
26 condition of probation, may require the person to do  
27 either of the following, if available in the county of the  
28 person's residence or employment:

29 (1) Participate, for at least 18 months subsequent to  
30 the underlying conviction and in a manner satisfactory to  
31 the court, in a program licensed pursuant to Chapter 9  
32 (commencing with Section 11836) of Part 2 of Division  
33 10.5 of the Health and Safety Code, as designated by the  
34 court. In order to enable all required persons to  
35 participate, each person shall pay the program costs  
36 commensurate with the person's ability to pay as  
37 determined pursuant to Section 11837.4 of the Health and  
38 Safety Code.

39 (2) Participate, for at least 30 months subsequent to  
40 the underlying conviction and in a manner satisfactory to

1 the court, in a program licensed pursuant to Chapter 9  
2 (commencing with Section 11836) of Part 2 of Division  
3 10.5 of the Health and Safety Code. A person ordered to  
4 treatment pursuant to this paragraph shall apply to the  
5 court or to a board of review, as designated by the court,  
6 at the conclusion of the program to obtain the court's  
7 order of satisfaction. Only upon the granting of that order  
8 of satisfaction by the court may the program issue its  
9 certificate of successful completion. A failure to obtain an  
10 order of satisfaction at the conclusion of the program is a  
11 violation of probation. In order to enable all required  
12 persons to participate, each person shall pay the program  
13 costs commensurate with the person's ability to pay as  
14 determined pursuant to Section 11837.4 of the Health and  
15 Safety Code. No condition of probation required  
16 pursuant to this paragraph is a basis for reducing any  
17 other probation requirement.

18 (g) Any person convicted of a violation of subdivision  
19 (f) of Section 655 shall be punished by imprisonment in  
20 the state prison, or in the county jail for not less than 90  
21 days or more than one year, and by a fine of not less than  
22 two hundred fifty dollars (\$250) or more than five  
23 thousand dollars (\$5,000). If probation is granted, the  
24 court, as a condition of probation, may require the person  
25 to participate in, and successfully complete, a program  
26 licensed pursuant to Chapter 9 (commencing with  
27 Section 11836) of Part 2 of Division 10.5 of the Health and  
28 Safety Code, if available in the person's county of  
29 residence or employment, as designated by the court. In  
30 order to enable all required persons to participate, each  
31 person shall pay the program costs commensurate with  
32 the person's ability to pay as determined pursuant to  
33 Section 11837.4 of the Health and Safety Code.

34 (h) (1) If any person is convicted of a violation of  
35 subdivision (f) of Section 655 within seven years of a  
36 separate conviction of a violation of subdivision (b), (c),  
37 (d), or (e) of Section 655 and is granted probation, the  
38 court shall impose as a condition of probation that the  
39 person be confined in the county jail for not less than five  
40 days or more than one year and pay a fine of not less than

1 two hundred fifty dollars (\$250) or more than five  
2 thousand dollars (\$5,000).

3 (2) If any person is convicted of a violation of  
4 subdivision (f) of Section 655 within seven years of a  
5 separate conviction of a violation of subdivision (f) of  
6 Section 655, of Section 191.5 or subdivision (c) of Section  
7 192.5 of the Penal Code, when the prior conviction  
8 resulted from the operation of a vessel, or Section 23152  
9 or 23153 of the Vehicle Code or Section 191.5 or paragraph  
10 (3) of subdivision (c) of Section 192 of the Penal Code,  
11 when the separate conviction resulted from the operation  
12 of a motor vehicle, and is granted probation, the court  
13 shall impose as a condition of probation that the person  
14 be confined in the county jail for not less than 90 days or  
15 more than one year, and pay a fine of not less than two  
16 hundred fifty dollars (\$250) or more than five thousand  
17 dollars (\$5,000), and the court, as a condition of probation,  
18 may order that the person participate in a manner  
19 satisfactory to the court, in a program licensed pursuant  
20 to Chapter 9 (commencing with Section 11836) of Part 2  
21 of Division 10.5 of the Health and Safety Code, if available  
22 in the county of the person's residence or employment.  
23 In order to enable all required persons to participate,  
24 each person shall pay the program costs commensurate  
25 with the person's ability to pay as determined pursuant to  
26 Section 11837.4 of the Health and Safety Code.

27 (i) The court shall not absolve a person who is  
28 convicted of a violation of subdivision (f) of Section 655  
29 within seven years of a separate conviction of a violation  
30 of subdivision (b), (c), (d), (e), or (f) of Section 655, of  
31 Section 191.5 or subdivision (c) of Section 192.5 of the  
32 Penal Code, when the separate conviction resulted from  
33 the operation of a vessel, or Section 23152 or 23153 of the  
34 Vehicle Code or Section 191.5 or paragraph (3) of  
35 subdivision (c) of Section 192 of the Penal Code, when the  
36 separate conviction resulted from the operation of a  
37 motor vehicle, from the minimum time in confinement  
38 provided in this section and a fine of at least two hundred  
39 fifty dollars (\$250), except as provided in subdivision (h).

1 (j) Except in unusual cases where the interests of  
2 justice demand an exception, the court shall not strike a  
3 separate conviction of an offense under subdivision (b),  
4 (c), (d), (e), or (f) of Section 655 or of Section 191.5 or  
5 subdivision (c) of Section 192.5 of the Penal Code, when  
6 the prior conviction resulted from the operation of a  
7 vessel, or Section 23152 or 23153 of the Vehicle Code or  
8 Section 191.5 or paragraph (3) of subdivision (c) of  
9 Section 192 of the Penal Code, when the separate  
10 conviction resulted from the operation of a motor vehicle,  
11 for purposes of sentencing in order to avoid imposing, as  
12 part of the sentence or as a term of probation, the  
13 minimum time in confinement and the minimum fine, as  
14 provided in this section. When a separate conviction is  
15 stricken by the court for purposes of sentencing, the court  
16 shall specify the reason or reasons for the striking order.  
17 On appeal by the people from an order striking a separate  
18 conviction, it shall be conclusively presumed that the  
19 order was made only for the reasons specified in the  
20 order, and the order shall be reversed if there is no  
21 substantial basis in the record for any of those reasons.

22 (k) A person who flees the scene of the crime after  
23 committing a violation of Section 191.5, paragraph (1) or  
24 (3) of subdivision (c) of Section 192, or subdivision (a) or  
25 (c) of Section 192.5 of the Penal Code shall be subject to  
26 subdivision (c) of Section 20001 of the Vehicle Code.

27 *(l) Any person who violates Section 654.3 is guilty of an*  
28 *infraction punishable by a fine of not more than five*  
29 *hundred dollars (\$500) for each separate violation.*

30 *SEC. 3. No reimbursement is required by this act*  
31 *pursuant to Section 6 of Article XIII B of the California*  
32 *Constitution for certain costs that may be incurred by a*  
33 *local agency or school district because in that regard this*  
34 *act creates a new crime or infraction, eliminates a crime*  
35 *or infraction, or changes the penalty for a crime or*  
36 *infraction, within the meaning of Section 17556 of the*  
37 *Government Code, or changes the definition of a crime*  
38 *within the meaning of Section 6 of Article XIII B of the*  
39 *California Constitution.*

1    *However, notwithstanding Section 17610 of the*  
2    *Government Code, if the Commission on State Mandates*  
3    *determines that this act contains other costs mandated by*  
4    *the state, reimbursement to local agencies and school*  
5    *districts for those costs shall be made pursuant to Part 7*  
6    *(commencing with Section 17500) of Division 4 of Title*  
7    *2 of the Government Code. If the statewide cost of the*  
8    *claim for reimbursement does not exceed one million*  
9    *dollars (\$1,000,000), reimbursement shall be made from*  
10   *the State Mandates Claims Fund.*

